

FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
NAGPUR BENCH, NAGPUR

Second Appeal No.442/2004

(The Municipal Council & ors. Vs. Madanlal Babulal Pathewar)

Appeal

District :

Application No.

of 200

Writ petition

Office Notes, Office Memoranda of Coram,
 appearances, Court's orders or directions
 and Registrar's orders.

Court's or Judge's orders

Mr. A. Parihar, Adv. for the appellants.

Mr. Anand Parchure, Adv. for R-Sole.

CORAM : Smt. Vasanti A. Naik, J.

DATED : 11th July, 2007.

Heard the learned counsel for the parties.

The respondent had filed a suit against the Municipal Council, Gondia, for declaration that the termination order dated 5/1/1977 was illegal and invalid and the plaintiff should be reinstated in service. According to the plaintiff, the Municipal Council did not give a fair and reasonable opportunity to the plaintiff to defend himself and no enquiry was conducted against the plaintiff before issuing the order of termination on 5/1/1977.

The trial as well as the appellate Court held that the termination of the plaintiff from service was illegal as the Council had not given him any reasonable opportunity of defending himself. The Courts further recorded a finding that the respondent was terminated from service without holding any enquiry against him. The Courts

consequently decreed the suit filed by the plaintiff and termination order dated 5/1/1977 was set aside.

I have perused the record and proceedings. It does not reveal that the Municipal Council had conducted any enquiry against the plaintiff before issuing the order of termination dated 5/1/1977. In the absence of conducting an enquiry and in the absence of any reasonable opportunity to the plaintiff to defend his case, it cannot be said that the trial as well as the appellate Court were not justified in decreeing the suit of the plaintiff. The findings recorded by both the Courts are pure findings of facts which do not give rise to any substantial question of law.

Second appeal is, therefore, dismissed with no order as to costs.

JUDGE

RMP